

California Tahoe Conservancy  
Agenda Item 8b  
May 19, 2011

**BROCKWAY EROSION CONTROL PROJECT**

**Summary:** Staff recommends authorization of a site improvement grant of up to \$620,715 and a long-term license agreement with Placer County to facilitate the County's installation of improvements in support of the Brockway Erosion Control Project on up to three Conservancy owned parcels.

**Location:** The project is located in the Brockway Subdivision, on the north shore of Lake Tahoe in Placer County. License agreements are being recommended for Placer County Assessor Parcel Numbers 090-263-003, 09-0292-002, and 090-305-008 (Attachment 1).

**Fiscal Summary:** Up to \$620,715, in Prop 12, 40, 50 or 84 funds.

**Recommended Action:** Adopt Resolution 11-05-03 (Attachment 2) authorizing a site improvement grant and a long-term license agreement with Placer County for the Brockway Erosion Control Project, and making the necessary environmental findings.

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**Background**

The Brockway Erosion Control Project (Project) was initiated by Placer County (County) in 2000 to address regional water quality problems identified in Environmental Improvement Program (EIP) Project Number 732. Previously, the California Tahoe Conservancy (Conservancy) awarded a total of \$670,000 in planning funds and \$683,940 for acquisitions in support of the project. Other secured funding includes \$1,478,000 awarded by the U.S. Forest Service, Lake Tahoe Basin Management Unit, \$436,956 in Tahoe Regional Planning Agency mitigation funds, and \$79,800 provided by the State of Nevada through that State's Lake Tahoe License Plate Fund. Total secured funding is \$3,348,696.

Historically, staff has brought Soil Erosion Control Program grant awards to the Board on a yearly basis. In July 2007, the Board authorized the release of the Soil Erosion Control Grants Program Announcement and Guidelines for funding grants for the

2007-2008 grants program. The Announcement and Guidelines requested applications from local jurisdictions for the highest priority erosion control projects that are listed in the EIP. The County submitted an application for the Project, which was evaluated in accordance with the Conservancy's evaluation criteria detailed in the Announcement and Guidelines. Conservancy staff found the application and Project to be consistent with the Announcement and Guidelines.

This Project is a high priority because it treats numerous sources of pollutants, including fine sediment particles that are efficiently transported to Lake Tahoe. Large expanses of heavily-utilized impervious surfaces produce significant volumes of stormwater runoff and pollutants. These impervious surfaces, combined with steep slopes and slow infiltration rates, exacerbate erosion and create a high degree of hydrologic connectivity to Lake Tahoe during storm events, which result in very efficient transport of pollutants to the Lake.

Project planning has been complex because the Brockway Watershed (Watershed) straddles the California-Nevada state line, and stormwater runoff is produced by development in both states. Development within the Watershed includes privately-owned businesses and residences, State Route 28, and county streets. This development produces significant volumes of intermingled stormwater runoff. Separating the flows so that each landowner treats stormwater runoff separately is impractical, so the Project was developed to address all flows. This required the development of a shared funding strategy between the States and a major landowner.

As stated above, funding for this Project was originally sought in 2007. However, staff postponed the request for the Board to authorize an Erosion Control Program site improvement grant due to unresolved stakeholder issues. In the summer of 2007, Boulder Bay, LLC purchased the former Tahoe Biltmore Hotel and Casino, one of the largest contributors of privately-generated stormwater runoff in the Watershed. This required extensive renegotiations between stakeholders. In April, 2011, Boulder Bay, LLC secured project approvals through the Tahoe Regional Planning Agency's (TRPA) Community Enhancement Program (CEP). As part of this CEP, Boulder Bay, LLC proposes to construct a large infiltration facility down gradient of State Route 28 to treat its required volume of stormwater runoff and a portion of the stormwater runoff from adjacent public sources beginning within two and a half years of receiving its TRPA permit. Boulder Bay, LLC will also provide an easement to the County for the construction of conveyance infrastructure that will receive overflow from this infiltration facility and direct it to public lands for infiltration and treatment.

## Project Description

As discussed above, pollutants produced within the Project area are very efficiently transported to Lake Tahoe. However, it is expected that this Project will greatly reduce fine sediment particle loading to Lake Tahoe by implementing sediment source controls, paving unpaved roads, stabilizing stormwater conveyances, enhancing the treatment capacity of stream environment zones, and constructing infiltration facilities on County and Conservancy-owned lands (Attachment 3).

Staff recommends authorization to execute a Soil Erosion Control Program site improvement grant and a license agreement with the County to implement water quality improvements within the Project Area, which includes improvements on three Conservancy-owned parcels. The improvements proposed for each parcel follow:

<b>Assessor's Parcel Number</b>	<b>Location</b>	<b>Proposed Improvements</b>
090-263-003	Pier Avenue	Rock slope protection and revegetation
090-292-002	Pier Avenue	Fill to match existing slope and revegetation Water quality basin and related infrastructure,
090-305-008	Pelican Avenue	revegetation, and vehicle barriers (boulders and fencing)

Pre-project water quality monitoring was performed in this project area during the planning phase of the project. Staff anticipates returning to the Board in the near future with a recommendation to provide funding for post-project water quality monitoring to assess project effectiveness and assist with basin-wide monitoring efforts.

## Project Budget

The budget for this grant is as follows:

<b><u>Activity</u></b>	<b><u>Budget</u></b>
Construction Contract	\$340,715
Construction Management, Testing, and Administration	135,000
Contingency	135,000
Post-construction photo monitoring	10,000
<b>TOTAL</b>	<b>\$620,715</b>

The Conservancy has State Treasurer's Office (STO) approval of this Project and cash allocated for the Project under Proposition 50. The Conservancy also has STO approval and cash allocated to spend available Proposition 84 funding on new Water Quality/Stormwater grants to multiple local jurisdictions. The Conservancy plans to fund this Project from these sources. Cash is also allocated to the Conservancy from Propositions 12 and 40 for use on this Project if necessary.

### **Project Implementation**

As stated above, TRPA's Governing Board approved the Project in April 2011. TRPA's approval of the Boulder Bay project requires installation of infiltration facilities that mitigate its development. Approval if authorized by the Conservancy Board, implementation of the Project will be governed by a standard grant agreement entered into by the Conservancy and the County. As in recent agreements, this new site improvement grant will provide for an advance of up to 90% for design, administration, and construction.

### **Project Schedule**

<u>Activity</u>	<u>Date</u>
Public Bid Process	May 2011
Award of Construction Contract	June 2011
Begin Construction	Aug 2011
Complete Construction	October 2012
First year Post-construction Monitoring	October 2013
Complete Post-construction Monitoring	October 2014

The project budget and schedule are preliminary. Once a construction contract has been awarded by the County, it may be necessary to alter the schedule or the allocation of funds in the budget. However, such changes will not exceed the total amount awarded in the grant. Any remaining funds in the Project will be used, if necessary, to extend improvements to adjoining areas.

### **Project Evaluation**

The authorization of a site improvement grant and a license agreement for access rights and construction of improvements associated with Conservancy-funded projects is consistent with the Conservancy's Soil Erosion Control Program Guidelines. As stated above, the project is considered a high priority soil erosion control project. The parcels

proposed for the license agreement were acquired under the Conservancy's Environmentally Sensitive Lands Acquisition Program, and the County's improvements seek to improve water quality and prevent soil erosion. The County will be required to maintain all improvements for twenty years after project installation.

### **Consistency with the Conservancy's Enabling Legislation**

Implementation of the Project is consistent with the Conservancy's enabling legislation. Specifically, Government Code Sections 66905.2 and 66907.7 authorize the Conservancy to award grants to local public agencies, state agencies, federal agencies, federally recognized Indian tribes, the Tahoe Transportation District, and nonprofit organizations for purposes consistent with its mission which includes soil erosion control projects.

The recommended license is consistent with the Conservancy's enabling legislation. Specifically, Government Code Section 66907.8 authorizes the Conservancy to lease, rent, sell, exchange, or otherwise transfer any interest in real property or interest therein to local public agencies, individuals, corporate entities, or partnerships for management purposes. Under Government Code Section 66907.9, the Conservancy is authorized to initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, corporate entities, or partnerships, and to enter into any other agreements authorized by state or federal law.

### **Compliance with the California Environmental Quality Act (CEQA)**

Placer County, acting as the Lead Agency, prepared an Initial Study (IS) and Mitigated Negative Declaration (MND) for this project to comply with CEQA. Placer County adopted the MND on October 4, 2007, and a Notice of Determination (NOD) was filed on October 9, 2007. The Conservancy previously considered this MND on December 7, 2007 and filed an NOD with the State Clearinghouse on December 13, 2007.

On April 1, 2011 the Conservancy prepared an Addendum to the MND to comply with CEQA. The Addendum addressed modifications to more clearly identify Conservancy-owned parcels that the County will utilize for the Project. The Addendum determined that there were no substantial changes in the environmental effects of the Project, that no new information of substantial importance has arisen, and that there has been no substantial change to the circumstances under which the Project is being undertaken. The Addendum also determined that the mitigation measures in the adopted MND remain the same. The MND, NOD, Addendum, and record of project approval may be

examined at the Placer County Department of Public Works offices at 7717 North Lake Boulevard, Kings Beach, California 96143.

Copies of the IS, MND, and Addendum have been provide to the Board on the attached CD and are available for public review at the Conservancy office, 1061 Third Street, South Lake Tahoe, California 96150 (Attachment 4).

Staff has reviewed the MND and Addendum and believes the improvements proposed have been adequately analyzed in this document. Staff has determined that the Project, as proposed, would not cause a significant effect on the environment. Since completion of the IS, MND, and Addendum, there is no new information, substantial changes to the proposed Project, or changes to project implementation, which would involve any new significant effects which were not analyzed in the MND. As a result, no new mitigation measures are needed to find that the Project, as mitigated, would have no significant environmental impacts. The mitigation measures for the Project can be found on pages 2-6 of the MND.

Staff recommends that the Board review the MND and the Addendum and make the findings as set forth in the attached resolution. If the Board adopts the MND and the Addendum and authorizes the Project, staff will file an NOD with the State Clearinghouse pursuant to California CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et seq.), Section 15096. Attachment 5 contains the Conservancy's proposed NOD.

#### **List of Attachments:**

Attachment 1 – Brockway Erosion Control Project, Project Area and License  
Agreements Map

Attachment 2 – Resolution 11-05-03

Attachment 3 – Proposed Site Improvements

Attachment 4 – Placer County IS and MND, Conservancy Addendum (Attached CD)

Attachment 5 – Notice of Determination

#### **Conservancy Staff Contact:**

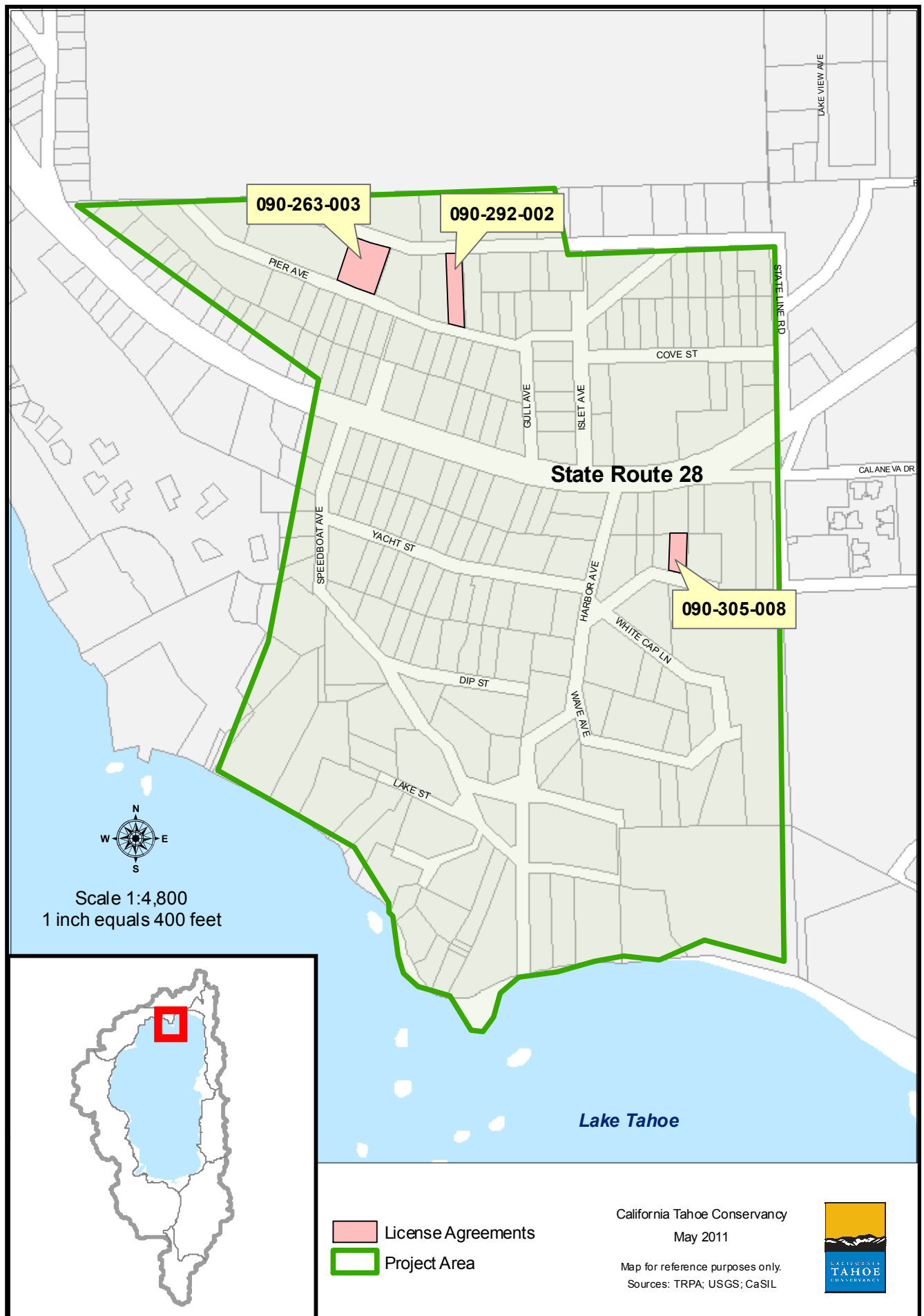
Scott K. Cecchi

Phone: (530) 543-6015

E-mail: [scecchi@tahoe.ca.gov](mailto:scecchi@tahoe.ca.gov)

# ATTACHMENT 1

## Brockway Erosion Control Project, Project Area and License Agreements



## **ATTACHMENT 2**

California Tahoe Conservancy

Resolution

11-05-03

Adopted: May 19, 2011

### **BROCKWAY EROSION CONTROL PROJECT**

Staff recommends the California Tahoe Conservancy make the following finding based on the accompanying staff report pursuant to Public Resources Code Section 21000 et seq.:

"The California Tahoe Conservancy has reviewed the Initial Study and Mitigated Negative Declaration prepared by Placer County for the Brockway Erosion Control Project. The Mitigated Negative Declaration was filed with the State Clearinghouse on October 4, 2007. On April 1, 2011 the Conservancy prepared an Addendum.

The Conservancy has determined that the Project as proposed will not cause a significant effect on the environment. There is no new information, substantial changes to the proposed Project, or changes to project implementation, which would involve any new significant effects which were not analyzed in the Mitigated Negative Declaration and Addendum. Furthermore, since the County's certification of the Mitigated Negative Declaration, there are no changes regarding the Project that would require new or different mitigation measures. The potential significant adverse effects will be mitigated by the mitigation measures, and the Conservancy adopts these mitigation measures as a condition of the Project.

Accordingly, the Conservancy finds that the Mitigated Negative Declaration and the Addendum are adequate for compliance with CEQA for authorizing the project site improvement grant agreement and license agreement and directs staff to file a Notice of Determination for this Project with the State Clearinghouse."

Staff further recommends that the Conservancy adopt the following resolution pursuant to Government Code Sections 66905.2, 66907.7, 66907.8, and 66907.9:



"The California Tahoe Conservancy hereby authorizes the award of a site improvement grant in the amount up to \$620,715, and a license agreement with Placer County for the Brockway Erosion Control Project and authorizes staff to enter into standard agreements and take all other necessary steps consistent with the accompanying staff recommendation.

The award of this site improvement grant and disbursement of funds is conditioned upon a commitment, by resolution and through execution of standard agreements, by individual grantees to undertake the Project in a manner consistent with the purposes and scopes of the grants, to monitor the effectiveness of the Project, and to manage and maintain the Project for the 20 year term of the grants."

I hereby certify that the foregoing is a true and correct copy of the resolution duly and regularly adopted by the California Tahoe Conservancy at a meeting thereof held on the 19<sup>th</sup> day of May 2011.

IN WITNESS THEREOF, I have hereunto set my hand this 19<sup>th</sup> day of May 2011.

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Patrick Wright  
Executive Director

ATTACHMENT 3  
Brockway Erosion Control Project, Proposed Improvements



COUNTY OF PLACER      DEPARTMENT OF PUBLIC WORKS  
**BROCKWAY EROSION CONTROL PROJECT**  
WATER QUALITY IMPROVEMENTS

PRJ. ENG.: ATR  
DRWN: MAB  
DATE: 03/24/11  
SCALE: N.T.S.

LEGEND

CALIFORNIA TAHOE CONSERVANCY PARCEL



**ATTACHMENT 4**

**BROCKWAY EROSION CONTROL PROJECT**

Placer County Initial Study  
Mitigated Negative Declaration  
Conservancy Addendum

Attached CD

## ATTACHMENT 5

### NOTICE OF DETERMINATION

TO: Office of Planning and Research  
1400 10<sup>th</sup> Street, Room 121  
Sacramento, CA 95814

FROM: California Tahoe Conservancy  
1061 Third Street  
South Lake Tahoe, CA 96150

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***Subject:***

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resource Code

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***Project Title:***

Brockway Erosion Control Project

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***State Clearinghouse Number:***

2007082049

***Contact Person:***

Scott K. Cecchi

***Telephone Number:***

(530) 543-6015

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***Project Location:***

The Brockway Erosion Control Project is located on the north shore of Lake Tahoe near the California/Nevada state line, approximately 0.5 miles southeast of Kings Beach. The project area extends through the area of development approximately 0.5 miles north of State Route 28 and is bounded by Speedboat Avenue to the west, the state line to the east, and the lake shoreline to the south.

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***Project Description:***

The Brockway Erosion Control Project addresses co-mingled stormwater runoff from Nevada and California in a shared, jointly-funded treatment system. The improvements are expected to greatly reduce fine sediment particle loading to Lake Tahoe from the project area by implementing sediment source controls, paving unpaved roads, stabilizing stormwater conveyances, enhancing the treatment capacity of stream environment zones, and constructing infiltration facilities.

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This is to advise that the Conservancy, acting as a responsible agency, has approved the above-described project on May 19, 2011 and has made the following determinations regarding the above-described project:

1. The project will not have a significant effect on the environment.
2. A Mitigated Negative Declaration (MND) for the Project was prepared and approved by the Placer County Board of Supervisors on October 4, 2007, and a Notice of Determination (NOD) was filed on October 9, 2007. On April 1, 2011, the Conservancy prepared an Addendum to the MND to more clearly identify Conservancy parcels that the County will utilize for the Project. The MND, NOD, and record of project approval may be examined at the Placer County Department of Public Works, 7717 North Lake Boulevard, Kings Beach, California 96143. The Conservancy previously reviewed and approved the MND that was prepared by the County and the Addendum that was prepared by the Conservancy prior to project approval.
3. Mitigation Measures were made a condition of the approval of the Project by the County and the Conservancy.

4. The Conservancy finds that no substantial changes are proposed in the Project, and no substantial changes have occurred with respect to the circumstances under which the Project is taken that would affect any potentially significant environmental effects. Furthermore, there are no changes regarding the Project that would require new or different mitigation measures.

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Fish and Game Fees: N/A; Placer County paid fee October 4, 2007.

***Date Received for Filing:***

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Patrick Wright  
Executive Director